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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

File: WAC 01 036 52340 Office: California Service Center Date: JUN 24 2002

IN RE: Petitioner: [redacted]
Beneficiary:

Petition: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(A)

IN BEHALF OF PETITIONER:

[redacted]

PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(A), as an alien of extraordinary ability in the sciences and business. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part, that:

> (1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):
>
> > (A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --
> >
> > > (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
> > >
> > > (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
> > >
> > > (iii) the alien's entry to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the Service regulation at 8 C.F.R. 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that she has sustained national or international acclaim at the very top level.

This petition, filed on November 14, 2000, seeks to classify the petitioner as an alien with extraordinary ability as a research scientist/entrepreneur. At the time of filing, the petitioner was a researcher in the Department of Electronics at the Royal Institute of Technology ("RIT") in Sweden where she was pursuing her Ph.D. The petitioner came to the United States as a visiting scientist (under J-1 visa status) to conduct research at Cornell University (1998 to 1999) and Stanford University (2000). The petitioner's research involves "the packaging and interconnections of high frequency electronics for communications systems."

The regulation at 8 C.F.R. 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence that, she claims, meets the following criteria.

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The petitioner states that she has received the following awards:

1. NORDTEK Scholarship (1991)
2. Royal Institute of Technology Internal Stipend (1992)
3. NUTEK Scholarship
4. Cultural and Educational Exchange Funding for the petitioner's research at Cornell University from the Swedish Institute (1998 to 1999)
5. "Thanks to Scandinavia" Foundation Grant (1999)
6. Swedish Strategic Research Funding Grant (2000)
7. Finalist in the 1999 Motorola IEEE/CPMT Society Graduate Student Fellowship

The record contains little or no first-hand evidence from the awarding entities confirming that the petitioner received these awards. Furthermore, some of the supporting documents that the petitioner did provide were not accompanied by a certified English translation. By regulation, any document containing foreign language submitted to the Service shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. 8 C.F.R. 103.2(b)(3).

The director stated that the petitioner's awards constitute academic awards and "do not rise to the standard of even lesser nationally or internationally recognized prizes for excellence in the field of endeavor." On appeal, counsel asserts that the director "arbitrarily discounted" all of the petitioner's awards as local academic awards. Counsel argues: "Many of the petitioner's awards and prizes were of a national or international nature and awarded based on the petitioner's recognized merits in her breakthrough research." However, the petitioner's own description of the awards and the evidence submitted do not support counsel's conclusion that the petitioner's scholarships and grants reflect nationally or internationally recognized "prizes or awards."

The petitioner submits an e-mail message reflecting her selection as one of eight student finalists in the 1999 Motorola IEEE/CPMT Society Graduate Student Fellowship competition. The petitioner and seven other finalists were offered $1000 in travel expenses to present their papers at the 1999 ECTC in San Diego. The petitioner submits no evidence that she ultimately won this graduate student fellowship competition. While it is certainly recognition of one's

talents to be selected as finalist, the regulation clearly requires the receipt of a nationally or internationally recognized "prize or award." In describing the NORDTEK Scholarship, the petitioner states that NORDTEK is "an agreement on student exchange between Nordic universities of technology, architecture and art." The petitioner adds that the NORDTEK Scholarship "allows students to earn part of their degree at another Nordic university." The petitioner indicates that the Royal Institute of Technology Internal Stipend was a "stipend for [her] Master of Science work at [RIT] in 1992." University study is not a field of endeavor, but, rather, training for future employment in a field of endeavor. Scholarships and student stipends are local in nature and do not constitute nationally recognized "awards for excellence in the field of endeavor." Such an award may recognize the petitioner's academic achievements, but it offers no meaningful comparison between the petitioner and the most experienced and practiced professionals in the field of electrical engineering.

The Swedish Institute's funding of the petitioner's Cultural and Educational Exchange at Cornell University, the Thanks To Scandinavia Foundation's funding of the petitioner's conference presentations, and the Swedish Strategic Research Funding Grant limit comparison of the petitioner to other graduate students and doctoral candidates applying for the same grants, thus excluding the most eminent, established and experienced researchers in the field from consideration. The petitioner's receipt of a grant from the Swedish Institute (covering her eighteen months at Cornell University) represents future funding of petitioner's doctoral training and research, rather than national recognition of her prior achievements in the field of electrical engineering. Information provided by the petitioner reflects that the Thanks To Scandinavia Foundation "provides scholarships to Scandinavian graduate students to study in the United States." The institution credits itself with providing over one thousand scholarships, fellowships and other grants to Scandinavian students, researchers and doctors at American colleges, universities and medical centers. The foundation notes that it currently gives in excess of $250,000 per year. The petitioner's reimbursement for expenses incurred while traveling to various conferences hardly qualifies as a nationally or internationally recognized award. The documentary evidence provided by the petitioner regarding the Swedish Strategic Research Funding Grant was not accompanied by a certified English language translation. We further note that the petitioner's receipt of such research funding is not a national award for excellence in her field, but, rather financial support for ongoing research.

The above sources of funding for the petitioner's ongoing studies, travel, and research were awarded not by outside nomination, demonstrating the field's regard for the petitioner's ability, but upon the petitioner's application to the programs. Research grants generally support future work rather than recognized prior achievements and it cannot be argued that the petitioner's receipt of travel reimbursement and financial aid automatically places her at the pinnacle of her field. Furthermore, the reputations of the above-mentioned awarding bodies do not establish that scholarships and grants from those institutions are a significant national honor. The petitioner has failed to demonstrate that the scholarships and grants listed above enjoy significant national or international stature.

Documentation of the alien's membership in associations in the field for which

classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

The petitioner submits proof of her membership in the following associations:

1. The Institute of Electrical and Electronics Engineers (IEEE) which includes the IEEE Solid-State Circuits Society (SSCS); Microwave Theory and Techniques Society (MTTS); Components, Packaging and Manufacturing Society (CPMT); IEEE Standards Association (IEEESA); Laser and Electro-Optics Society (LEOS); and IEEE Antennas and Propagation Society (APS).
2. Society of Women Engineers (SWE)
3. International Microelectronics and Packaging Society (IMAPS)
4. Surface Mount Technology Association (SMTA)
5. The Institute for Interconnecting and Packaging Electronic Circuits (IPC)

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the associations require outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, a fixed minimum of education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion because participation, employment, education, experience, test scores and recommendations do not constitute outstanding achievements. In addition, memberships in an association that judges membership applications at the local chapter level do not qualify. It is clear from the regulatory language that members must be selected at the national or international, rather than the local, level. Finally, the overall prestige of a given association cannot satisfy the criterion, because the key issue is membership requirements rather than the association's overall reputation.

The petitioner provides no evidence that the above associations require outstanding achievements in electrical engineering as a condition for membership. In response to the director's request for evidence, the petitioner acknowledges: "I have not pursued memberships beyond 'regular' member status in these associations." The certificates, letters of acceptance, and membership cards provided by the petitioner support this statement. For example, a letter dated "Spring 2000" from SWE congratulates the petitioner on "graduation from engineering school" and encourages her to "complete and return the student membership upgrade form with [her] $25 payment."

We note that SWE has three membership levels above the student level:

(1) Member. Any person who is or has been actively engaged in engineering work is eligible to become a Member if at the time of application for admission or advancement she/he qualifies under one of the following classifications:

(a) Holds a baccalaureate or advanced degree in engineering or engineering

technology from a recognized college or university.
(b) Holds a baccalaureate or advanced degree in a science related to engineering from a recognized college or university.
(c) Has at least five years engineering experience indicating engineering competency and achievement.

(2) Senior Member: Any person who is or has been actively engaged in the profession of engineering is eligible to become a Senior Member if at the time of application or advancement she/he qualifies under one of the following classifications:

(a) Holds a degree in engineering from a recognized college or university and has at least six years of increasingly important engineering experience.
(b) Holds a degree in a science related to engineering from a recognized college or university and has at least six years of increasingly important engineering experience.
(c) Has at least 11 years of increasingly important engineering experience indicating engineering competency and achievement.
(d) Anyone who receives the SWE Achievement Award is automatically made a Senior Member, except that a Fellow of the Society who has received the SWE Achievement Award shall retain the Fellow grade.

(3) Fellow: A person who has been a Senior Member of SWE at least eight years or a Member of SWE for at least twenty years may be chosen a Fellow of the Society in recognition of her/his continuous service to the advancement of women in the engineering profession.

The petitioner states that she is also a "regular" member of IEEE. Information from IEEE reflects the following:

The grade of Member is limited to those who have demonstrated professional competence in IEEE-designated fields. For admission or transfer to the grade of Member, a candidate shall be either: An individual engaged in IEEE-designated fields... who shall have received a baccalaureate degree or its equivalent in those fields from a program on the Reference List of Educational Programs, or who shall have had at least three years of experience in a position normally requiring the qualification listed above, which may be accepted in lieu of the educational requirements at the discretion of the Admission & Advancement Committee.

The grade of Senior Member is the highest for which application may be made and shall require experience reflecting professional maturity. For admission or transfer to the grade of Senior Member, a candidate shall be an engineer, scientist, educator, technical executive, or originator in IEEE-designated fields. The candidate shall have been in professional practice for at least ten years and shall have shown significant performance over a period of at least five of those years, such performance including one or more of the following:

> Substantial engineering responsibility or achievement
> Publication of engineering or scientific papers, books, or inventions
> Technical direction or management of important scientific or engineering work with evidence of accomplishment
> Recognized contributions to the welfare of the scientific or engineering profession
> Development or furtherance of important scientific or engineering courses in a program on the "reference list of educational programs"

> The grade of Fellow recognizes unusual distinction in the profession and shall be conferred only by invitation of the Board of Directors upon a person of outstanding and extraordinary qualifications and experience in IEEE-designated fields, and who has made important individual contributions to one or more of these fields. The year of election to the grade of Fellow is the year following affirmative action by the Board of Directors in conferring the grade of Fellow.

The petitioner's "regular" membership in IEEE and SWE clearly carries less prestige than "senior" or "fellow" memberships. A simple comparison of the above membership requirements reflects that the petitioners status in these organizations falls significantly short of demonstrating achievement at the top of her field.

The record does not reflect that the petitioner's associations require outstanding achievements for their members in the manner of highly exclusive associations such as (for example) the U.S. National Academy of Sciences. In sum, there is no evidence to demonstrate that "regular" membership in the above associations requires outstanding achievement in electrical engineering as judged by recognized national or international experts.

> *Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.*

The petitioner submits three witness letters from her former colleagues and research collaborators. Mehran Mokhtari, Ph.D., of HRL Laboratories, states:

> I have worked in the field of microelectronics since 1985. While in Sweden, I was employed at Ericsson Microwave Systems in Gothenburg, as Senior Research Scientist, as well as Royal Institute of Technology in Stockholm, as project manager, and group leader for the High Frequency IC-design group at the Department of Electronics.
>
> [The petitioner] joined the Department of Electronics at Royal Institute of Technology, already in 1992. She conducted her Master's Thesis, as part of her master's education at Tampere University of Technology in Finland, and received the highest possible grade, for the work.

Following the M.Sc. degree, she became an employee of Royal Institute of Technology, began assisting in the on-going research projects at the Department of Electronics. As a result of her contributions, she successfully published several papers in international Journals and Conferences. Her work was concentrated in the field of High Speed Integrated Circuits for Communications Systems. She was also involved in several EU-projects, among others, in the EARNEST-project, where she served as the project manager. By 1997, she realized the bottlenecks in high-speed circuits arising from packaging related issues, and decided to concentrate her work in this field. She became the first Ph.D. student in the area of packaging High Frequency ICs, supervised by myself, at the Department of Electronics. Her work has been exceptional. In cooperation with Cornell University in Ithaca, NY, she has published several conference and journal papers, proposing solutions to extremely significant problems, currently faced by High Frequency Modules. These solutions are novel and highly appreciated by industry as well as the research society. Especially, her efforts in converting the fabrication methods to a more environmentally friendly process, by proposing alternative materials and processing steps are greatly appreciated.

Packaging High Frequency ICs is of utmost importance especially in industries conducting business in Communication Systems' related areas. It is most beneficial in countries with high technological standard such as United States. I am convinced that her contributions to United States will be of irreplaceable significance.

[redacted] refers to "solutions" developed by the petitioner, but fails to specifically identify the solutions or describe their impact on the entire field. His statements are vague and offer little or no detail regarding the petitioner's proven accomplishments.

Mohammad Madihian, Ph.D., Technical Manager and Head of the Microwave and Signal Processing Group at NEC Corporation, states:

Great advances have been made in high frequency electronics during the past years. However, a unified packaging approach that makes practical use of these advances to facilitate a true low-cost internetworking and personal communication has been missing. With my expertise I can state that [the petitioner's] research may have profound commercial implications. She has done excellent pioneering work in the field of interconnections and packaging for high frequency systems creating a platform where ICs for the first time can truly be an integral part of a system merging components together. For her degree of Technical Licentiate, [the petitioner] performed series of experiments gaining thorough understanding of bottlenecks with respect to traditional IC packaging methods and proved her way to the verge of commercial success; she has had negotiations with a leading manufacturing facility (Ericsson Microwave Systems) to prototype modules for base stations utilizing her method for modules for the next generation wireless systems.

In addition to this, Optillion, a company that aims to develop, manufacture and market

fiber-optic Ethernet transceivers for 10 Gb/s and beyond, enabling superior broadband internet communications, has shown great interest in her work. [The petitioner] and I will during the course of a few months be collaborating with a number of established researchers in order to commercialize her invention. She incorporated Phoenix Broadband Technologies, Inc. for this goal and for the long run intends to pursue her high tech venture from this U.S. based establishment.

Yang Xu, Ph.D., Micro-Electro-Mechanical Systems Division Leader at Advanced Integrated Photonics, Inc., states:

[The petitioner] is one of the key pioneers in creating more compact and environmentally friendly modules for optical and wireless communication systems with micro-fabrication technology, where extreme high frequency and wide bandwidth are called for. Her contribution and accomplishments are instrumental for the advancement of these systems in today's high tech industry.

* * *

I have been familiar with [the petitioner's] research work and professional interests for approximately 4 years since we both were working in the Cornell Nanofabrication Facility at Cornell University and now in the Stanford Nanofabrication Facility at Stanford University. We have kept frequent conversations on the progress of each other's research work.

[The petitioner] is a visionary pioneer in utilizing micro-fabrication technology for communication systems. Her ultimate goal is to empower every individual of our society by using the most modern micro-fabrication technology to make wireless communication systems better and cheaper for all of us.

I would like to bring your attention to [the petitioner's] massive record of accomplishment. They speak volumes for her extraordinary ability as an outstanding researcher in the fields of micro-fabrication and circuit design for communication systems. More importantly, I would like to bring to your attention her extraordinary ability beyond her research work. In following her heart to make a difference in people's lives, [the petitioner] has been laboring for years with big corporations (such as Ericsson) and individual investors to setup a corporation and to bring her vision and her research results into real products. Her excellence in research and her wonderful organizational and communication skills have earned her good reputation among the big corporations and investors. Most importantly, she has earned the confidence and loyalty of a large team of good engineers just like myself.

The classification sought by the petitioner requires her to establish that she has attained national or international acclaim for her contributions of major significance to the field. The petitioner's three witnesses consist entirely of her immediate colleagues and research

collaborators. If the petitioner's work is not widely praised outside of her professional acquaintances, then it cannot be concluded that she has made a contribution of major significance in the field of electrical engineering.

The petitioner's witnesses mention her published and presented work. However, the record contains no evidence that the presentation or publication of one's work is a rarity in electrical engineering research, nor does the record sufficiently demonstrate that independent researchers have heavily cited or relied upon the petitioner's findings in their research. While the petitioner's research may have practical applications, it can be argued that any research article, in order to be accepted in a scientific journal for publication, must offer new and useful information to the pool of knowledge. It does not follow that every scientist whose scholarly research is accepted for publication or presented at a conference has made a major contribution to her field. The petitioner must demonstrate that her research has garnered national or international attention from throughout the scientific community. We will further address the petitioner's published works under a separate criterion.

The witnesses offer general descriptions of the petitioner's work rather than focusing on her specific contributions. Vague statements crediting the petitioner as being a "key pioneer in creating more compact and environmentally friendly modules for optical and wireless communication systems with micro-fabrication technology" cannot suffice to demonstrate a contribution of major significance. The construction of the regulations demonstrates the Service's preference for verifiable documentary evidence, rather than subjective opinions of witnesses selected by the petitioner. It should be noted that the Service is not questioning the credibility of the petitioner's witnesses, but looking for evidence that the petitioner's research has impacted the scientific community beyond her immediate acquaintances. Section 203(b)(1)(A)(i) of the Act requires extensive documentation of sustained national or international acclaim. Evidence in existence prior to the preparation of the petition carries greater weight than new materials prepared especially for submission with the petition. An individual with sustained national or international acclaim should be able to produce ample unsolicited materials reflecting that acclaim.

While the petitioner is credited with "gaining a thorough understanding of bottlenecks with respect to traditional IC packaging methods" and "proposing solutions to extremely significant problems," the mere fact that the petitioner conducted novel research to propose improved engineering methods for optical and wireless communication systems carries little weight. Of far greater importance in this proceeding is the importance to the field of the petitioner's discoveries. The petitioner has not provided sufficient evidence to demonstrate that her research, to date, has consistently attracted significant attention from prominent researchers in the scientific community. The petitioner must show not only that her discoveries are important to her fellow collaborators, but throughout the electrical engineering field. While the petitioner may have contributed to the pool of knowledge by proposing novel solutions described as "appreciated by industry," her specific efforts do not rise to the level of a contribution of major significance. The petitioner's contributions appear to be incremental rather than fundamental.

The testimonial letters, such as the letter from [redacted] speculate on the future promise of petitioner's research. [redacted] states that the petitioner's research "may have profound commercial implications." In closing his letter, [redacted] states that he will be collaborating with the petitioner in order to commercialize her invention. He notes that Optillion, a fiber-optic Ethernet transceiver manufacturer, has shown interest in the petitioner's work. [redacted] describes the petitioner's recent accomplishments as a "Ph.D. student" and speculates that her future contributions "will be of irreplaceable significance." [redacted] states that the petitioner has "earned the confidence of a large team of good engineers" and that he believes in her "ability to bring wonderful things to all of us." Rather than focusing on the petitioner's specific past accomplishments of major significance to the engineering field, the petitioner's witnesses address her ability and potential to make a contribution. The overall tone of their letters suggest that the petitioner, while a highly competent and promising researcher, has not yet significantly impacted the electrical engineering field.

On appeal, counsel states that the petitioner's pending patent for "Embedded High Frequency Microsystems" constitutes an original contribution of major significance. The petitioner submits a patent application dated April 6, 2001. This evidence came into existence subsequent to the petition's filing. See Matter of Katigbak, 14 I & N Dec. 45 (Reg. Comm. 1971), in which the Service held that beneficiaries seeking employment-based immigrant classification must possess the necessary qualifications as of the filing date of the visa petition.

Even if we were to accept the patent application as evidence, nothing has been submitted to demonstrate that the petitioner's pending patent is more significant than the thousands over other patents granted annually by the United States Patent and Trademark Office. The granting of a U.S. patent documents that the innovation is original, but not every patented invention or innovation constitutes a contribution of major significance.

The petitioner seeks a highly restrictive visa classification, intended for aliens already at the top of their respective fields, rather than for individuals progressing toward the top at some unspecified future time. We cannot ignore that the petitioner's three witnesses appear to have earned considerably more prestige and authority than the petitioner in the scientific community; they hold higher positions, have published more articles, and have won greater awards for their work. While the witnesses are useful in describing the overall nature of the petitioner's research, they fail to demonstrate the petitioner's lasting or wide-ranging impact in her field that is critical to a demonstration of sustained national or international acclaim. In sum, the record does not show that the petitioner's research is widely recognized as being a major contribution to the electrical engineering field.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The petitioner submitted evidence that he has authored or co-authored several conference and journal papers. The Association of American Universities' Committee on Postdoctoral Education, on page 5 of its Report and Recommendations, March 31, 1998, set forth its recommended

definition of a postdoctoral appointment. Among the factors included in this definition were the acknowledgement that "the appointment is viewed as preparatory for a full-time academic and/or research career," and that "the appointee has the freedom, and is expected, to publish the results of his or her research or scholarship during the period of the appointment."

Thus, this national organization considers publication of one's work to be "expected," even among researchers who have not yet begun "a full-time academic and/or research career." This report reinforces the Service's position that publication of scholarly articles is not automatically evidence of sustained acclaim; we must consider the research community's reaction to those articles. When judging the influence and impact that the petitioner's work has had, the very act of publication is not as reliable a gauge as is the citation history of the published works. Publication alone may serve as evidence of originality, but it is difficult to conclude that a published article is important or influential if there is little evidence that other researchers have relied upon the petitioner's conclusions. Frequent citation by independent researchers demonstrates more widespread interest in, and reliance on, the petitioner's work.

The petitioner submits no evidence her work has been cited by researchers throughout the scientific community. As the publication of one's findings is an inherent duty of doctoral candidates and post-doctoral researchers, the petitioner has failed to distinguish her articles as superior to those of other competent researchers. In sum, the petitioner has failed to demonstrate that her published works have earned her national or international acclaim.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

The petitioner submits a letter from RIT stating that she receives "monthly support" in the amount of $4000. The petitioner also submits a non-certified translation of a salary chart published by the Swedish Association of Graduate Engineers. The petitioner compares her salary only to the median salaries of engineers who completed their degree of Technical Licentiate between 1995 and 1999. The petitioner's comparison is extremely flawed, as it excludes all those who completed their degree of Technical Licentiate prior to 1995 from the comparison. The petitioner's comparison also excludes individuals with advanced education beyond the degree of Technical Licentiate, such as those possessing a doctorate. The plain wording of the regulation requires the alien to submit evidence of a high salary "in relation to others in the field." In comparing her salary to others in the field, the petitioner cannot simply exclude individuals from consideration based on when they received their degree of Technical Licentiate or because they possess a higher level education.

The petitioner's use of median salary statistics as a basis for comparison is also inappropriate. The petitioner must offer evidence that her salary places her at the very top of her field, not in the top half. We further note that the petitioner offers no evidence regarding the salaries or remuneration of Swedish entrepreneurs. In this case, the petitioner must demonstrate that her salary is high when compared with the most experienced and well-known research scientists and entrepreneurs around the country.

In a letter accompanying the initial filing, the petitioner states that she has no residence in Sweden. She further states: "Between 1993 and 1998, I traveled extensively to the United States in order to attend professional conferences, courses and visit other universities." From March 1998 to the present, the petitioner has spent the majority of her time residing in the United States (the petition was filed November 14, 2000). On appeal, counsel argues that the director erred by failing to consider the petitioner's salary only in relation to researchers in Sweden. However, given the length of her presence in the United States, it is entirely appropriate to consider the petitioner's salary in comparison to other U.S. entrepreneurs and engineering researchers. The petitioner offers no such comparable evidence.

The petitioner established Alia Tech, Inc. on November 6, 2000. The petitioner alleges that she has received "several multimillion dollar offers from local and remote venture capitalists to fund [her] company." However, the petitioner has provided no evidence showing Alia Tech's actual receipt of this funding in the form of contracts, financial statements, or letters of verification from the venture capital firms. The record contains no evidence demonstrating Alia Tech's success as a business venture or the petitioner's success as an entrepreneur.

Clearly, the petitioner's professional acquaintances have a high opinion of the petitioner's skills and potential. The petitioner's research, however, does not appear to have yet had a measurable influence in the larger field. Her witnesses discuss the potential applications of her technological solutions, but there is no indication that these applications have yet been realized. The petitioner's work has added to the overall body of knowledge in her field, but this is the goal of all such research; the assertion that the petitioner's work may eventually have practical applications does not persuasively distinguish the petitioner from other competent researchers.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit prospectively the United States.

Review of the record, however, does not establish that the petitioner has distinguished herself as a research scientist/entrepreneur to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence indicates that the petitioner is competent in her field, but is not persuasive that the petitioner's achievements set her significantly above almost all others in her field. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.